

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ORDER

Criminal File No. 11-163 (MJD/FLN)

(1) JOSEPH EARL HERRERA,

Defendant.

Thomas M. Hollenhorst, Assistant United States Attorney, Counsel for Plaintiff.

Joseph Earl Herrera, pro se.

This matter is before the Court on Defendant Joseph Earl Herrera's Pro Se Ex Parte Forthwith Motion for Modification/Reduction of Sentence Pursuant to 18 U.S.C. § 3582(c)(1)(A). [Docket No. 87]

Under the First Step Act, 18 U.S.C. § 3582(c)(1)(A), the Court may, upon a defendant's motion following exhaustion of administrative remedies or the lapse of 30 days from the receipt of such a request by the warden of the defendant's facility, whichever is earlier, "reduce the term of imprisonment (and may impose a term of probation or supervised release with or without conditions that does

not exceed the unserved portion of the original term of imprisonment), after considering the factors set forth in section 3553(a) to the extent that they are applicable, if it finds that-- (i) extraordinary and compelling reasons warrant such a reduction . . . and that such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.”

Defendant has exhausted administrative remedies. (See Govt. Brief at 8 n.1.) Therefore, the Court addresses the merits of Defendant’s request.

The Court finds that Defendant has failed to show “extraordinary and compelling reasons” due to medical condition or age. See U.S.S.G. § 1B1.13, cmt. 1(A). Defendant requests release based on the COVID-19 pandemic. Defendant is a 36-year-old man with no evidence of any medical condition that would place him at higher risk for complications from COVID-19 than the general population. Defendant offers no evidence of any relevant medical condition. Defendants’ parents submitted a letter to the Court regarding Defendant’s successful corneal transplant in 2019. They assert that Defendant’s follow-up care has not been adequate; however, they assert no damage to his health beyond constant rubbing irritation and do not assert that his eye condition increases his risk for complications from COVID-19.

Accordingly, based upon the files, records, and proceedings herein, **IT IS**

HEREBY ORDERED:

Defendant Joseph Earl Herrera's Pro Se Ex Parte Forthwith Motion for Modification/Reduction of Sentence Pursuant to 18 U.S.C. § 3582(c)(1)(A) [Docket No. 87] is **DENIED**.

Dated: July 30, 2020

s/ Michael J. Davis

Michael J. Davis

United States District Court